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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 09/474,326
Filing Date: December 29, 1999
Appellant(s): FOTH ET AL.

MAILED

APR 1 9 2007

GROUP 3600

STEVEN SHAAPIRO
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed October 24th, 2005 appealing from the Office action mailed May 5th, 2005.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings

which will directly affect or be directly affected by or have a bearing on the Board's decision in

the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in

the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,073,124   KRISHNAN ET AL   6-2000

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

See final action dated May 5th, 2005

(10) Response to Argument

Applicant argue that the prior art (Krishnan et al) fail to teach or suggest, "the concurrent

displaying of purchasing information with the downloading of encoded digital content."

Applicant further argues that the prior art never discuss dynamically encrypting digital content

product being sent from a first computer to a second computer." Examiner respectfully disagrees

with Applicant's characterization of the prior art.

For sake of clarity, Examiner includes a table map comparison of the claim limitation and

the prior art is provided.

Chart of the broadest claim

Claim 1

Claim limitation	Prior art (Krisham et al., 6,073,124)
A method for using a computer to facilitate a transaction between a merchant (*virtual store*) and a buyer (*client*)	methods and systems for facilitating the purchase and delivery of electronic content using a secure digital commerce system, For the purposes of this specification, a virtual store is any executable file, data, or document (for example, a WEB page) that enables a user to electronically purchase merchandise over a network (*summary of the invention, col. 4 line 12-44, col. 6 lines 34-62)*
downloading into the computer a digital content file of the merchant, the digital content file including a header with information related to purchasing a digital content product and the digital content product in encoded form	The DCS client includes a plurality of client components, which are downloaded by a boot program onto a customer computer system in response to requesting an item of merchandise to be licensed or purchased. The downloaded client components include a secured (e.g., encrypted) content file that corresponds to the content of the requested item and licensing code that is automatically executed to ensure that the item of

	merchandise is properly licensed before a customer is permitted to operate it *(col. 4 lines 23-32)-*
using the computer for reading the downloaded header and displaying at least some of the information related to purchasing the digital content product while concurrently downloading the encoded digital content product into the computer	the virtual store downloads and potentially initiates the execution of a boot program associated with the requested merchandise (see step 403 in FIG. 4). Specifically, each merchandise icon is linked (anchored) to a merchandise-specific download file, which is a file stored on (or generated by) the virtual store. In one embodiment, the download file is a self-extracting file that contains: extraction code, a header that indicates the size of the boot program which follows, the boot program (preferably compressed), and the appropriate component list file. The download file can be generated statically using the SAFEmaker utility described above or can be generated dynamically by the virtual store when it downloads a WEB page that includes the icon that is anchored to the download file. When the customer selects a merchandise icon, the customer is queried whether to download and store or download and execute the anchor file (indicated by the link). When the user indicates that the download file is to be executed, the extraction code of the download file is executed, which causes the component list (the ".ssc" file) to be extracted and the boot program executable to be (potentially decompressed,) extracted and executed. One skilled in the art will recognize that any mechanism for associating an icon with a boot program and for causing the boot program to be downloaded and executed is operable with the secure digital commerce system *(see col. 15 line 49-16 line 7).*

What Krishnan et al suggest is a system wherein the customer requests an item of merchandise, for example, by selecting an icon that is linked to a download file that corresponds to the desired item. In response to the selection, in step 403, the virtual store 304 downloads and installs the download file, which extracts the executable boot program and component list and causes execution (preferably as a background task) of the executable boot program on the
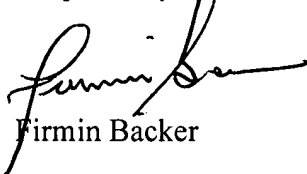
customer computer system 311. In step 404, the boot program reads the component list to

determine what DCS client components to download and requests the determined components

from the appropriate contents supplier server 306. The component list, as further described

below with reference to Table 2, indicates source and target locations for each component to be

downloaded. In step 405, the boot program installs a downloaded (secured) content file that is

associated with the desired item of merchandise and causes the content file to be processed

(executed). When the content file is a computer program, then the downloaded content file has

been previously configured to automatically cause licensing code to be executed before the

content file is executed. Furthermore Krishnan et al teach the downloaded client components

include a secured (e.g., encrypted) content file that corresponds to the content of the requested

item and licensing code that is automatically executed to ensure that the item of merchandise is

properly licensed before a customer is permitted to operate it.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related

Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Firmin Backer

Conferees:

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